IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
APPEAL NO.565 OF 2006
IN
NOTICE OF MOTION NO.2740 OF 2006
IN
SUIT NO.507 OF 2005

Mrs. Meena D. Gupta .... Appellant
Vs.
Mrs. Saraswati N. Menon .... Respondent

Shri S.A. Purohit i/b M/s. Udwadia & Udeshi
for the Appellant.

Shri G.C. Mohanty for the Respondent.

CORAM: R.M.S. KHANDEPARKAR &
Dr. D.Y. CHANDRACHUD, JJ.

DATED: FEBRUARY 26, 2007

P.C:

Heard. This appeal arises from the order dated 30-12-2004 passed by the learned single Judge in Notice of Motion in Suit Lodging No.3746 of 2004. The Suit has been filed for specific performance of agreement and pending the disposal of the Suit, the Notice of Motion was taken out for interim relief. The learned single Judge has found that undisputedly the agreement was subject to certain terms and conditions which included requirement of the necessary NOC by Kapol Co-operative Housing Society Limited and in the absence thereof it was observed that prima facie the appellant has not been able to make out any case for grant of any ad-interim

relief. The said finding is clearly borne out from the records as the agreement apparently discloses the same. Therefore, no fault can be found with the impugned order holding that no prima facie case is made out for grant of any ad-interim relief. Accordingly, there is no case for interference in the impugned order in the appeal. The Notice of Motion is already ripe for hearing before the learned single Judge. Hence there being no case made out for interference in the impugned order, the appeal is rejected. Needless to say, the learned single Judge will have to disposed of the Notice of Motion uninfluenced by any of the observations made herein.

(Dr.D.Y.Chandrachud, J.) (R.M.S.Khandeparkar, J.)

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